

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

HESHAM JAMALEDIN,

Defendant.

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Cause No. 4:18CR00503RWS(NCC)

**REQUEST FOR LEAVE TO FILE SUPPLEMENTAL AFFIDAVIT
IN SUPPORT OF DEFENDANT'S MOTION TO COMPEL**

Comes now, Defendant Hesham Jamaledin, and respectfully requests leave to file the attached Supplemental Affidavit of computer forensics expert Tami Loehrs offered in support of Defendant's previously filed Motion to Compel (Doc. 43). In support of this request Defendant offers the following:

1. Defendant has retained Ms. Tami Loehrs, an expert computer forensic examiner, to review the discovery in this case. The attached Affidavit reflects Ms. Loehrs' preliminary findings.
2. Ms. Loehrs has over twenty years as a computer forensic examiner. She is a certified by multiple organizations for computer forensic examinations, has conducted over one thousand computer forensic examinations (of which half were child pornography related), and she has testified as an expert over one hundred and twenty-seven times. Ex A. pg. 1:16-28; pg. 2: 1-4.
3. Ms. Loehrs has reviewed the discovery in this matter. Ex A. pg. 9:9-28.
4. Ms. Loehrs is familiar with the law enforcement software used in this case, RoundUp Ares, and has analyzed other cases involving RoundUp Ares. Ex A. pg. 3:1-12.
5. Ms. Loehrs Affidavit states several areas of concern that the Court should consider for this motion. First, Ms. Loehrs states that there are numerous versions of RoundUp Ares and the

functionality of each version is unknown as is the changes between each version. Ex. A. pg.4:4-9. These changes likely impact functionality and address bugs that were previously observed. Second, Ms. Loehrs indicates that there is no known testing or validation of this software by a qualified third party that meets industry standards. *Id.*

6. In her experience, working on hundreds of cases involving peer-to-peer filing sharing investigations, there can be inconsistencies between the forensic evidence and the information reported by the law enforcement software. Ex A. pg. 4:10-15. These inconsistencies include the law enforcement software identifying files that do not exist on the suspect computer or identifying files that are not publicly available for sharing. *Id.*

7. In her expert opinion, these issues necessitate the need for further testing of these programs, or at least transparency about how they operate. *Id.*

8. The need is amplified in peer-to-peer cases since the law enforcement tool is interfacing with third party peer-to-peer file sharing software which is outside of their control. Ex. A Pg. 6:20-23; Pg. 7:1-15. That third-party software contains known bugs and other interface issues that may impact the data collected by the law enforcement software. *Id.*

9. Ms. Loehrs also states that any testing of the law enforcement program can be done without violating any law enforcement privilege. Ex. A Pg. 7:16-20. In fact, Ms. Loehrs has been permitted to test a similar law enforcement tool in *United States v. Gonzales*, 2:17-CR-01311 PHX(DGC) in the District Court of Arizona. In her Affidavit she explains how that testing was performed without compromising law enforcement investigations. Ex. A. pg. 7:21-28.

10. In her opinion, due to the errors that have been observed in other RoundUp Ares cases, and the ability to test the program without breaching law enforcement privilege, there is a need to verify the accuracy of the program. Ex A. pg. 8:3-10.

WHEREFORE, Defendant requests leave to file the attached Affidavit for consideration in support of Defendant's Motion to Compel.

Respectfully Submitted:

FRANK, JUENGEL & RADEFELD,
ATTORNEYS AT LAW, P.C.

By: s/ Daniel A. Juengel
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CERTIFICATE OF SERVICE

I hereby certify that on December 12, 2019, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon the following.

Kenneth Tihen
United States Attorney
111 South Tenth Street
St. Louis, Missouri, 63102.

/s/ Daniel A. Juengel
DANIEL A. JUENGEL